(18,718.)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1902.

No. 490.

RIBAS Y HIJO, APPELLANT,

vs.

THE UNITED STATES.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF PORTO RICO.

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JUDD & DETWEILER, PRINTERS, WASHINGTON, D. C., FEBRUARY 25, 1903.

1 THE UNITED STATES OF AMERICA, } ss:
District of Porto Rico, }

At a regular term of the district court of the United States of America, within and for the district of Porto Rico, begun and held at the court-rooms in the city of Ponce on the second Monday in January being the 14th day of that month, in the year of our Lord one thousand nine hundred and one and of the Independence of the United States the one hundred and twenty-fifth—present, the Hon. Wm. H. Holt, district judge. Among the proceedings had were the following to wit:

J. RIBAS E HIJO
vs.
THE UNITED STATES. } Claim # 78.

2 Be it remembered that heretofore, to wit, on the sixth day of October A. D. 1900 came the plaintiffs by their attorney and filed in the clerk's office of this court a petition in this cause, which said petition is clothed in words and figures following, to wit:

Petition.

In the District Court of the United States for Porto Rico.

J. RIBAS É HIJO
against
THE UNITED STATES.

J. Ribas e Hijo a company incorporated and organized under the laws of the Kingdom of Spain having an office and doing business at the city of Vigo, Spain, and at the city of Ponce Porto Rico respectfully shows to this honorable court:

First. That said company on the 25th day of July 1898 and ever since thereafter has been and now is the sole owner of a seagoing vessel known by the name: "Paz."

Second. That on or about the 28th day of July 1898 the United States by its duly authorized agents, that is to say: the officers of the quartermaster's department of the army, had employed the said vessel "Paz" for the use of the said United States as a storage
3 vessel for coal for the space of time of twelve months and two weeks, that is to say, beginning from on or about the said 28th day of July 1898 and up to on or about the 12th day of August 1899. That the said owners of the said vessel never have received from the United States or its agents anything in payment for the lease use and occupation of said vessel. That demand for payment has been made upon said officers and through the War Department of the United States and that such payment has been refused.

Third. That the value of the lease use and occupation of said

vessel for said space of time is the sum of ten thousand dollars United States currency.

For which sum said company now sues and prays judgement upon the law and facts alleged.

EDUARDO ARRUZA,
Agente de J. Ribas e Hijo.
CHAS. M. BOERMAN,
Attorney and Solicitor for the Petitioners.

UNITED STATES OF AMERICA, }
District of Porto Rico, } ss:

4 Eduardo Arruza being duly sworn says that he is agent of the company J. Ribas é Hijo at the city of Ponce, Porto Rico. That all the allegations in the foregoing petition are true in fact and substance.

EDUARDO ARRUSA.

Sworn to before me this 6th day of October 1900.

[SEAL.] GEO. W. LIEBERTH, *Clerk,*
By MANUEL CORTADA,
Deputy Clerk.

And afterwards, to wit: on the 10th day of October in the year last aforesaid came the marshal of said district to whom the said petition was directed for service and returned the same into the clerk's office of the court aforesaid, with his proceedings endorsed thereon clothed in the words and figures following to wit:

Marshal's Return.

UNITED STATES OF AMERICA, }
The District of Porto Rico. }

I received this petition October 9 1900 and executed it by delivering a copy of the same to N. B. K. Pettingill U. S. district at-
5 torney for the district of Porto Rico, on October 10 1900.

E. S. WILSON,
U. S. Marshal.

And afterwards to wit: on the 10th day of January A. D. 1901 came the defendant in this case by its attorney and filed in the clerk's office of the court aforesaid its certain answer in this cause which said answer is clothed in words and figures following to wit:

In the District Court of the United States for the District of Porto Rico.

J. RIBAS Y HIJOS
vs.
THE UNITED STATES. } Statutory Suit of Damages.

Comes N. B. K. Pettingill, United States attorney for said district of Porto Rico and on behalf of the said United States making answer to the petition heretofore filed by the plaintiff herein says, that as to the allegations of the first paragraph of said petition the United States is entirely ignorant of such ownership, except as made known by the plaintiffs themselves, and calls upon the plaintiffs for strict proof of the same. And the defendant further says
6 that the first information received or obtained by it of the alleged claim of said petitioners to the ownership of the vessel called "Paz" was in the claim filed on behalf of said petitioners in the War Department in the month of February, A. D. 1900; that previous thereto, to wit: in the month of April, A. D. 1899, the agents of the United States, acting under instructions from the said War Department, had made inquiries at the port of Ponce where said vessel was as to the ownership thereof for the purpose of delivering her to her owners; but such agents being unable to ascertain the names of such owners, gave notice to the consignees and to the captain, who also claimed to be owner in whole or in part, that the United States was ready to deliver said vessel to the captain or owners upon the relinquishment by them of any claim against the United States for damages because of the detention or use of said vessel, which offer was refused by the said captain thereof; and that the United States was at all times thereafter ready and will-
7 ing to make such delivery upon the terms aforesaid up to the time of the abandonment of said vessel by the said agents of the United States on account of such refusal; and that subsequent to the tender of delivery of said vessel to her captain and his refusal to received the same as aforesaid and the consequent abandonment thereof by the United States, the port of Ponce, where said vessel was lying, was swept by the disastrous hurricane of August 8, 1899, and as a result thereof said vessel was wrecked by the elements and rendered practically worthless.

Answering the second paragraph of said petition defendant admits that said vessel was used by the quartermaster's department, U. S. Army, as a storage vessel from the date alleged to about the end of the month of April, 1899, but not longer; and that the United States has paid no person for the use thereof but denies that it owes any person therefor. The United States on the contrary avers that on or about said 28th day of July, A. D. 1898, the said vessel
8 called "Paz" was captured by its military forces in the said port of Ponce, the said United States being at the time in a state of war with the Kingdom of Spain and its army having invaded the island of Porto Rico which was then a dependency of said kingdom, and thereupon the said military and naval forces of

the United States rightfully seized and took possession as an act of the war of the said vessel called "Paz" together with other vessels as enemies' property, said vessels then lying within the limits of said port of Ponce, and had the right as such act of war to use and confiscate the same for the reason aforesaid, if it had elected so to do; that the said United States was on said 28th day of July, A. D. 1898, and for some time thereafter at war as aforesaid with the Kingdom of Spain and the said petitioners and the captain of said vessel called "Paz" were at the time of said seizure thereof subjects of the said Kingdom of Spain; and that the subsequent tender of return of said vessel to her owners by said United States was purely an act of grace and not of duty or obligation on the part of
9 the United States.

Answering the third paragraph of said petition, the United States says that it is ignorant as to what might have been the value of the alleged use and occupation of said vessel but denies any liability for the payment of the same for the reasons aforesaid.

N. B. K. PETTINGILL,
United States Attorney.

UNITED STATES OF AMERICA,
District of Porto Rico.

N. B. K. Pettingill being duly sworn says that he is the attorney of the United States for the district aforesaid, and that the matters and things in the foregoing answer set forth are true to the best of his knowledge, information and belief.

N. B. K. PETTINGILL.

Sworn to before me this 10″ day of January, 1901.

GEO. W. LIEBERTH,
Clerk U. S. District Court.

And afterwards to wit, on the 22nd day of January of the year last aforesaid at a regular term of the said court an entry was made upon the journal of said court in said cause, which entry is clothed in words and figures following:

Entry.

This cause coming on for hearing parties herein announced ready the evidence was heard by the court and cause submitted.

10 And afterwards to wit, on the 26″ day of January of the year aforesaid came the plaintiffs in this case by their attorney and filed in the clerk's office of the court aforesaid a copy of the petition heretofore filed in said cause and an affidavit of service endorsed thereon which said affidavit is clothed in words and figures following to wit:

U. S. OF AMERICA, }
District of Porto Rico, } *ss:*

Rafael A. Sacarello being duly sworn says that on the 8" day of October 1900 he has mailed through the United States mail from the city of Ponce to the Attorney General of the United States at Washington a petition of which the within is a copy.

RAFAEL A. SACARELLO.

Sworn to before me this 26th day January 1901.

RICARDO NADAL, *Clerk.*
A. AGUAYO, *D'p'ty.*

And afterwards to wit on the 9th day of April A. D. 1901 an entry was made upon the order book of said court in said cause
11 which said entry is clothed in words and figures following, to wit:

In the United States District Court, District of Porto Rico, April 8th, 1901.

J. RIBAS Y HIJOS, Plaintiff, }
vs.
THE UNITED STATES, Defendant. }

Opinion.

This is an action for ten thousand dollars for the use of a vessel named "Paz," for the storage of coal for twelve months and two weeks, to wit: from July 28th, 1898 to August 12th, 1899. The declaration avers that the use was by the quartermaster's department of the army. The answer admits the alleged use from July, 1898, to May, 1899, but denies liability upon the ground that the vessel was enemy's property and was so seized by the military forces of the United States.

From the admissions in the pleadings and the evidence, these facts appear, to wit:

That the plaintiff in July 1898, was either a Spanish corporation or firm composed of Spanish subjects, and owned the "Paz,"
12 which was a merchant vessel and was in the port of Ponce when that city was captured by the United States Army and Navy on July 28th, 1898, and it was then taken for the use of the quartermaster's department. It was so used until in April, 1899, when the War Department ordered its return to the owner if all claim for use or damage for detention was waived. This conditional return was refused by the captain, who claimed to be a part owner, and who, with his crew, left the vessel.

There is also evidence tending to show that some time after this and probably in April, 1899, the consignees of the vessel were notified that it was at their disposal and that the Government authorities were about to discharge those in care of it, and they were requested to put some one in charge, but they declined to do so and

the vessel was abandoned. In the hurricane following of August, 1899, it was wrecked.

It was never in naval custody and no steps were ever taken to condemn it as a prize. It was, however, when seized a Spanish
13 vessel; it floated the Spanish flag; its captain and crew were Spanish subjects, as was also its owner. It did not come within any of the declared exemptions from seizure set forth in the proclamation of the President of the United States of April 26th, 1898, and a claim filed in the War Department in February, 1900, by the plaintiffs for its use and value was rejected.

From this findings of facts, these legal conclusions are reached, to wit:

The United States being at war with Spain when this seizure was made, every individual of the one country was in legal hostility to every individual of the other and all of the property of the one belligerant was to be considered as hostile as to the other. The Congress of the United States had by its act of April 25th, 1898, declared that war existed from April 21st, 1898, and when this vessel was seized it was enemy's property and as such liable to capture. Property may be hostile and liable to seizure in war from its character; it may be contraband, but generally the character of property follows the character of its owner. It is hostile if he be hostile.

14 It is true this vessel was private property, and not being used for hostile purposes. It was not a legitimate subject of capture by reason of any pecul-arity of its own, but it was, nevertheless, the property of an enemy, and as such liable to be seized and used to carry on the war and meet its expense, just as troops in the enemy's country may be subsisted by forced requisitions.

Halleck's Intern. Law, p. 356.

The former and stern rule was that anything might be done by a belligerant to weaken his adversary, and it has been vigorously urged by some distinguished writers upon the subject that this shouid be the rule because such is the object of war: but in recent years the rule has been so far modified that generally the property of non-combatants upon land is not liable to be seized as booty nor is pillage permissable; and our own Government has upon several occasions tried to embody into the law of nations the exemption from capture of all private property upon land, not contraband, and also merchant vessels; but this policy has not met with gen-
15 eral acceptance by the civilized nations of the world.

It may properly be said that as an abstract right, as the *strictum jus*, private movable property on land of an enemy is subject to seizure and this was the former custom; but the modern usage is, with some exceptions, to exempt it.

The case in hand, however, is the use of an enemy's property by the war power for war purposes. In the language of an eminent publicist it is one of those "special cases dictated by the necessary operation of war." (United States *vs.* Alexander, 69 U. S.) It is like the using temporarily for war purposes buildings or lands of

the enemy in invaded territory. There is no constitutional limitation of the war power; and while international law limits the subjects of capture, yet as to the necessity for it or for use of the enemy's property, the war power must, to some extent, necessarily judge. Individual hardship may result: it always does from war, but the province of the court is not to make but to declare
16 the law, and the conclusion is that no relief can be granted.

It is therefore ordered that this action be dismissed at the cost of the plaintiff- and the parties are hence dismissed.

WM. H. HOLT, *Judge.*

And afterwards to wit: on the 23rd day of April of the year last aforesaid came the plaintiffs by their attorney and filed in the clerk's office of the court aforesaid their certain petition for rehearing in this case, which said petition is clothed in words and figures following to wit:

Petition for Rehearing.

In the United States District Court, District of Porto Rico.

RIBAS Y HIJO
vs.
THE UNITED STATES.

The petition of Ribas y Hijo, the above-named complainants, shows:

17 That on or about the 6th day of September 1900, the complainants herein presented their bill to this honorable court and thereby set forth that The United States, the defendant herein, owe them the sum of ten thousand dollars for the use and occupation of a vessel named "Paz."

That the defendant herein has filed its answer; that thereupon issue having been joined and witnesses examined and the proof closed, after argument thereon before your honor a decree and finding of fact and of law were pronounced on the 8th day of April, 1901, whereby your honor decreed that the use and occupation of said vessel was a necessity of war and that therefore no payment could be made for it, and the complainants were dismissed, after which said decree was found and entered, and which said decree your orator humbly insists is erroneous and ought to be reviewed, reversed and set aside for the following apparent errors:

1st. That necessity of war which need not be paid and indemnified for is only an immediate necessity, as during a battle or siege, but does not include every class of private property which may be used for whatever purpose.

18 2nd. That the court did not take judicial notice of the fact that on the 12th of August, 1898, by the signing of the protocol of peace and by the proclamation of the President of the United States of America all hostilities ceased and the war was then thereby ended. That the evidence and the court's findings of fact show that

the use and occupation of the vessel for storage of coal continued after that time and up to the first of May, 1899, long after cessation of hostilities — of the establishment of peace.

That therefore, even if up to the 12th of August, 1898, there existed any necessity of war, it ceased on that date, and from that date on it was a use and occupation with the tacit understanding by both parties of a payment therefor *quantum meruit*.

In consideration whereof, and forasmuch as such errors and imperfections appear on the record of the case and in the body of said decree, and there is no proof to uphold any claim of necessity of war after the 12th day of August, 1898, your orator hopes that the said decree will be reversed and set aside.

19 To the end, therefore, that the defendant may show cause, if it can, why your orator should not have the relief hereby prayed, and that for the reasons and under the circumstances aforesaid, the said decree may be reversed, reviewed and set aside, and that your orator may obtain the relief to which he is justly entitled in the premises, he now prays the court to grant him due process by an order requiring the said defendant to show cause why the petition of your orator should not be granted, and your orator will ever pray.

C. M. BOERMAN,
Solicitor for Complainant.

UNITED STATES OF AMERICA,
District of Porto Rico, } *ss:*

Charles M. Boerman, under oath, says that the allegations of fact contained in the foregoing petition are true in fact and in substance.

C. M. BOERMAN.

Sworn to and subscribed before me this 23rd day of April, 1901.

RICARDO NADAL, *Clerk,*
By SAMUEL SALOMAN, *Deputy.*

20 And afterwards to wit on the 29th day of April of the year last aforesaid an order was entered upon the order book of said court in said cause which said order is clothed in words and figures following to wit:

Order.

In the United States District Court, District of Porto Rico.

RIBAS Y HIJO
vs.
THE UNITED STATES. } Order.

Now comes Ribas y Hijo by their attorney C. M. Boerman Esqr., and presented and filed their verified petition for a rehearing herein and moved that the same be granted; the decree herein be reversed and set aside and that they have judgment herein. The United

States district attorney objected thereto and by consent the same is now heard and submitted to the court and time taken for judgment.

April 23, 1901.

WM. H. HOLT, *Judge.*

21 And afterwards to wit: on the 30th day of April in the year last aforesaid an order was entered upon the order book of said court in said cause which said order is clothed in words and figures following to wit:

Order.

In the United States District Court, District of Porto Rico, April 27, 1901.

RIBAS Y HIJOS
v.
THE UNITED STATES.

A rehearing is asked upon the ground that the court has found as a matter of fact that the use continued until in April 1899 and as the protocol, followed by the President's proclamation, was dated August 12th, 1898, the complainants should recover on a *quantum meruit* the value of the use of the vessel between those dates.

This was a seizure in time of war and not in time of peace.

It was, as has been said, a special case arising from the necessary operation of war, and the war power of the Government con-

22 cluded it was necessary to take and use the property.

Even conceding that the seizure did not terminate all right of the Spanish owner in the property or to any use of it, yet the protocol and proclamation did not end the war. The protocol worked a mere truce. The President had not the power to terminate the war by treaty without the advice or consent of the Senate of the United States. If a treaty be silent as to when it is to become effective, the weight of authority is that it does not become so until ratified, and this was not done until in April 1899, and the war did not end by treaty until then, and all the use made by the Government of the vessel was justified by the rules of law and international law without compensation.

The motion is overruled and rehearing denied.

WM. H. HOLT, *Judge.*

And afterwards to wit: on the 25th of May of the year last

23 aforesaid an entry was made upon the journal of said court in said case which said entry is clothed in words and figures following to wit:

Entry.

The case of Ribas and Son *vs.* The United States having been heretofore tried before this court as provided by the statutes and the court having rendered his opinion and decision in favor of the de-

fendant herein upon the issue joined between the parties, it is now adjudged and considered that the defendant United States do go hence without day and do have and recover from the plaintiffs J. Ribas and Son a corporation and etc. its costs in this behalf laid out and expended to be taxed by the clerk of this court and that execution do issue therefore.

And afterwards to wit: on the same day and year last
24 aforesaid came the plaintiffs by their attorney and filed in the clerk's office of the court aforesaid their certain petition for appeal in this case which said petition is clothed in words & figures following to wit:

Petition for Appeal.

In the United States District Court, District of Porto Rico.

RIBAS Y HIJO
vs.
THE UNITED STATES.

To the Honorable William H. Holt, judge of the United States district court for the district of Porto Rico, presiding therein:

The above-named complainants and petitioners in the above-entitled cause, conceiving themselves aggrieved by the order and decree made and entered by the above-named court in the above-entitled cause under date of the 25th day of May, 1901 wherein and whereby their petition was dismissed, do hereby appeal to the United States Supreme Court from said order and decree, and particularly from that part of it which decrees the dismissal of said complaint,
25 and for the reasons set forth in the assignment of errors, which is filed herewith, and they pray that this, their petition for their said appeal may be allowed, and that the transcript of the record, proceeding, and papers, duly authenticated, and upon which said order was made may be sent to the United States Supreme Court.

This May 25th A. D. 1901.

C. M. BOERMAN,
Solicitor for Ribas y Hijos and of Counsel.

And thereupon on the same day and on the said petition for appeal an order was made and entered upon the journal of the said court which said order is clothed in words and figures following to wit

Order.

The foregoing petition for appeal is granted and the claim of appeal therein made is allowed. Done in open court this May 25th, A. D. 1901.

WM. H. HOLT,
Judge of the United States District Court, District of Porto Rico, and Presiding Therein.

26 And afterwards to wit: on the same day of the year last aforesaid came the plaintiffs in this case by their attorney and filed in the clerk's office of the court aforesaid their assigment of errors in this case which said assignnment of errors is clothed in words and figures following to wit:

Assignment of Errors.

In the United States District Court, District of Porto Rico.

RIBAS Y HIJO
v.
UNITED STATES.

Now come the complainants in the above-entitled cause and file the following assignment of errors upon which they will rely: The United States district court for the district of Porto Rico which court entered the decree of dismissal of complainants' petition in said cause, erred as follows:

First.

In dismissing the said suit and entering a final decree therein in favor of the United States and against the petitioners.

27 Second.

In not making, rendering and entering a decree in favor of said Ribas y Hijo, the petitioners, and against the United States, sustaining the validity of the claims sued on.

Third.

In holding and deciding that the taking of the property of complainants by the War Department and use of it was a necessity of war.

Fourth.

In holding and deciding that necessities of war were continuing after the 12" day of August, 1898, at which date the protocol of peace was signed by the representatives of the United States and Spain, and the President of the United States issued a proclamation ordering that all hostilities cease, by which protocol and proclamation the actual war, so far as the necessities of war were concerned, was then thereby ended.

Fifth.

28 In holding and deciding, contrary to the army regulations of the United States Army, which provide that no private property of the enemy should be taken without compensation, that the army was justified in using this property of petitioners without compensation.

Sixth.

In holding and deciding that the use and occupation of these complainants' vessel was the use of the enemy's property by the war power for war purposes.

Seventh.

In holding and deciding that the necessity of war held by international law as justifying the seizure and occupation of the enemy's property, includes not only such necessities which are immediately concerning the movements of an army or operations in a battle or siege, but all kinds of use of private property by the war power at any time and on any occasion during the war.

Therefore, the said Ribas y Hijo, complainant- in error, pray that the decree of the district court of the United States for the
29 district of Porto Rico be reversed and that said district court be directed to grant a new trial of said cause.

C. M. BOERMAN,
Attorney and Solicitor for Complainants in Error, Complainants in the Lower Court, and of Counsel.

And afterwards to wit: on the 24th day of May in the year A. D. 1902 an entry was made upon the journal of the court aforesaid in said cause which entry is clothed in words & figures following to wit:

Entry.

It is hereby ordered that the plaintiffs give bond in the sum of one thousand dollars for the purpose of appeal to be taken by the clerk of this court.

And afterwards to wit on the same day and year last aforesaid came the plaintiffs by their attorney and filed in the clerk's office of said court their certain bond for appeal in said cause which bond is clothed in words and figures following to wit:

Bond.

30 In the United States District Court, District of Porto Rico.

J. RIBAS Y HIJO
vs.
THE UNITED STATES.

Know all men by these presents that we Ribas y Hijo a firm composed of José Ribas and his son doing business in Vigo, Kingdom of Spain, as principals, and Eduardo Arrusa of Ponce and Bartolomé Gonzalez of the same city, Porto Rico, as sureties, are held and firmly bound unto the United States of America in the full and just sum of a thousand dollars to be paid to said United States of America, to which payment well and truly to be made we bind ourselves, our

heirs, executors and administrators, jointly and severally, firmly by these presents.

Sealed with our seals and dated this 24" day of May, one thousand nine hundred and two.

Whereas lately at a session of the United States district court for the district of Porto Rico in a suit pending in said court be-
31 tween the said Ribas y Hijo complainants and The United States, defendant, a decree was rendered against the said Ribas y Hijo and the said Ribas y Hijo having obtained from said court an order allowing an appeal to the Supreme Court of the United States to reverse the decree of the aforesaid suit and a citation directed to the said United States is about to be issued citing and admonishing them to be and appear at the United States Supreme Court to be holden at Washington, District of Columbia.

Now the condition of the above obligation is such that if the said Ribas y Hijo shall prosecute the said appeal to effect and shall answer all damages and costs that may be awarded against them if they fail to make their plea good then the above obligation to be void, otherwise to remain in full force and virtue.

J. RIBAS É HIJO, [ ]
Per EDUARDO ARRUZA.
EDUARDO ARRUZA. [ ]

B'MÉ GONZALEZ. [ ]

32 On this 24" day of May 1902 appeared before me Eduardo Arruza and Bartolome Gonzalez personally known to me and acknowledged that they executed the foregoing instrument.

RICARDO NADAL, *Clerk*,
[SEAL.] By A. AGUAYO, *D. C.*

U. S. OF AMERICA,
District of Porto Rico, } ss:

Eduardo Arruza and Bartolomé Gonzalez each of them being duly sworn says for himself: I am a householder of Ponce Porto Rico and I am worth more than a thousand dollars in visible property in the island of Porto Rico over and above my legal liabilities.

B'MÉ GONZALES.
EDUARDO ARRUZA.

[SEAL.] Sworn to before me this 24" day of May 1902.

RICARDO NADAL, *Clerk*,
By A. AGUAYO, *D. C.*

Approved this 24th day of May 1902.

RICARDO NADAL, *Clerk*,
By A. AGUAYO, *D'y Clerk.*

33 I Ricardo Nadal clerk of the United States district court for the district of Porto Rico do hereby certify that the foregoing is a true and correct transcript of the proceedings, petition, returns answer, findings of the court orders thereon, petition for rehearing, order thereon final judgment, petition for appeal, assignment of errors, order allowing appeal, and bond in the case therein stated.

In witness whereof I have hereunto set my hand and affixed the seal of said court at Ponce this 20th day of June, A. D. 1902.

[Seal United States District Court for the District of Porto Rico.]

RICARDO NADAL,
Clerk U. S. District Court of Porto Rico,
By A. AGUAYO, *Deputy Clerk.*

Endorsed on cover: File No. 18,718. Porto Rico D. C. U. S. Term No. 490. Ribas y Hijo, appellant, *vs.* The United States. Filed October 29, 1902.

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